

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 581 of 2007(T)

PETITIONER:

VALSALA, W/O. A.RAMESH,
SARAVANA BHAVAN, MULLUVILA, VADAKKEVILA, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1. THE CANARA BANK,
THATTAMALA BRANCH REPRESENTED BY ITS
AUTHORIZED OFFICER (CHIEF MANAGER),
THAMARAKULAM, KOLLAM.
2. A. RAMESH,
SARAVANA BHAVAN, MULLUVILA,
VADAKKEVILA P.O., KOLLAM.

BY SRI. PAULY MATHEW MURICKEN -SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C)NO.581/07

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE ORDER IN O.S.NO.451/03 OF THE FAMILY COURT,
KOLLAM.
- EXT.P2: THE TRUE COPY OF THE NOTICE NO.SARAFASI 5/06 DATED 6/2/06 ISSUED
BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P3: TRUE COPY OF THE REPRESENTATION/OBJECTION FILED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT ON 3.4.06.
- EXT.P4: TRUE COPY OF THE NOTICE DATED 20.12.2006 ISSUED BY THE 1ST
RESPONDENT UNDER SECTION 13(4) OF THE ACT.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.581 OF 2007

DATED THIS THE 24th DAY OF JULY, 2007

JUDGMENT

The petitioner challenges proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. At the time of admission a stay was granted against dispossession of the petitioner from the building for six weeks on condition that the petitioner remits an amount of Rs.25,000/-. The same has not been paid. The petitioner's submission is that in respect of the property in question there is a dispute between the petitioner and her husband before the Family Court. Further, the petitioner would submit that the Bank has obtained a decree in respect of the loan and the same is not being executed, but instead proceedings under the Act have been initiated.

2. The learned counsel for the Bank submits that notwithstanding the decree, they are entitled to proceed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. It is further submitted that without proceeding against the secured interest, the Bank cannot proceed against other properties of the husband of the petitioner, who is the

defaulter.

3. It is settled law that the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act should be challenged in appeal before the D.R.T as provided under the Act itself. The Supreme Court has held that this Court shall not ordinarily interfere with the proceedings under the Act in exercise of the jurisdiction under Article 226 of the Constitution of India. The petitioner has not been able to point out any special reasons as to why this Court should interfere under Article 226 of the Constitution of India.

In the above circumstances, I am not inclined to exercise my discretionary jurisdiction under Article 226 of the Constitution of India and accordingly, the writ petition is dismissed. However, the respondents shall give the petitioner one month's time to vacate the property in question, if not already dispossessed.

S. SIRI JAGAN, JUDGE

Acd

